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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,268	04/26/2004	Julius Vivant Dutu	10330.6806	3267
22235	7590	07/20/2005	EXAMINER	
MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,268

Applicant(s)

DUTU, JULIUS VIVANT

Examiner

CUONG H. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/22/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Status of the claims

1. This Office Action is the answer to the amendment received on 4/20/2005. Claims 1, and 3-24 are currently pending, wherein claim 1 is amended, and new claims 3-24 are added.

Drawing Objection

2. This application has been filed with 2 VERY INFORMAL drawings, Fig.1 shows a VERY high level of system blocks that do not represent a meaningful invention. Corrections are required..

Response

3. It is old and well-known that a thief can stole a physical ATM machine but can not access account holder's information or can not open that ATM safe box; that situation is analogous to a required authentication for controlling an aircraft to deviate from a predetermined flight path – although those are different intent of use, this authentication concept is already old and well-known. The examiner maintains previous McBain reference for rejections because a key claimed limitation is already taught by McBain (i.e., the applicant admits on page 7, para. 6 that the air vehicle is directed to a predetermined location (i.e., a predetermined flight path) if a problem occurs, based on this interpretation, McBain already suggests this idea. This pending invention is directed to a system/a method for authentication a command using biometric means (i.e., finger-prints, iris, facial appearance .etc.); the use of biometric for authentication has been old and well-known, especially in banking/transaction, or accessing a facility; this invention ONLY has a different intent of use: verify biometric identities to authentic a flight command – this different intent of use is not an inventive concept. All pending claims are amended, or are newly added claims; therefore, the arguments are moot with new grounds of rejections.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Dependent claims 23-24 recite a limitation of "**the air space is designated ...**" in the first line of these claims; there is insufficient antecedent basis for this limitation in those claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

5. **Claim 22 is rejected under 35 U.S.C. 102(e) as being anticipated by McBain (US Pat. 6,810,310).**

This presented claim is very BROAD; it does not tell anything about the subject matter of the invention is using biometric i.e., different finger-prints/facial appearance to signal/confirm the sending message.

The examiner examines the language of this claim and comes up with the interpretation as followings:

Independent claim 22 is a method claim having 2 limitations of: to confirm with a driver/pilot about a change in vehicle direction/flight trajectory, if a signal/report confirm that

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there is an emergency problem, then order to follow a predetermined direction (this is inherently suggested in McBain's disclosure).

McBain teaches about using an anti-terrorist sensor system on an aircraft having an autopilot feature, comprising: directing a plane to a safe air space when there is an emergency (see McBain, col.2 lines 55-66, and col. 3 lines 4-47). Therefore, McBain sufficiently teaches a method for providing added security to an air vehicle during flight as in pending claim 22.

McBain also discussed about using fingerprints or other biometric identifiers for an order/command is executed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Dependent claims 16, 21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBain (US Pat. 6,810,310).

A. Re. to dependent claim 23: The examiner respectfully submits that an air path/space is always designated/predetermined prior to take off of an airplane(see McBain, the abstract).

B. Re. to dependent claim 24:

McBain does not disclose that "an air space is independently designated".

However, the examiner respectfully submits that it has been obvious to one of ordinary skill in the art at the time of invention to recognize that an air space is normally, independently decided in emergency situations, NOT necessary dependent on a current aircraft's location. This is based on a predetermined decision OR a decision of a ground controller.

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7. Claims 1, 3-9, 16-19, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBain (US Pat. 6,810,310), in view of Waterman (US Pat. 6,691,956).

A. Re. to independent claim 17: This is a “system” claim to increase an aircraft security.

McBain teaches about a biometric input (see McBain, Figs 3-4, McBain also discussed about using fingerprints or other biometric identifier in order for an order is executed.);

McBain teaches about an aircraft controller in communication with a biometric input/reader, and other on-board computers.

McBain obviously suggests an on-board database when he teaches about receiving sense parameters (Fig.2, block 110) and comparing received data (Fig.2, block 120).

McBain obviously teaches about a predefined flight path when he makes comparing (detecting a change in flight trajectory of an air vehicle (see McBain, Fig.6 refs. 600-610; and col. 1 lines 50-60); and requesting a confirm from pilot regarding the change in flight trajectory (see McBain, col. 2 lines 25-42)).

McBain suggests about auto piloting the aircraft to a predetermined flight path when an emergency response is sent (see McBain, col. 2 lines 55-66, and col. 3 lines 4-47).

McBain does not disclose about an on-board controller request a response if there is a change in plane's trajectory.

However, Waterman suggests about automatically requesting a response if there is a change in flight path; he also suggests about automatically directing a plane to a planed air path if no authorization for doing differently (see Waterman, claim 1).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine McBain and Waterman 's idea to integrate interactive commands for a closed

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communication between a person on-board and aircraft computer for authorization before executing any command for the benefit of reserving the control-ability to authorized persons.

B. As for claims 1, 3-4, 6-9, and 22: The examiner respectfully submits that it has been obvious to one of ordinary skill in the art at the time of invention to recognize that McBain, in view of Waterman suggest these claims' limitations since they only contain lesser, similar limitations comparing to claim 17 – rationales as using in claim 17 are applied herein for obviousness rejections.

C. As for claim 5: The examiner respectfully submits that it has been obvious to one of ordinary skill in the art at the time of invention to recognize that McBain, in view of Waterman suggest this claim's (a) , (b), and (c) limitations – therefore, rationales as using in claim 17 are applied herein for obviousness rejections.

The examiner submits that McBain also suggest a step of communicating between ground control and the aircraft including sending a message from that aircraft. Therefore, a limitation (d) of claim 5 could be done automatically instead of “manually” sending a notification (see in re Venner) to a location remotely after a well-known procedure happens such as a proper response is not received from a controller of the air vehicle.

D. As per claim 18: The rationales and references for a rejection of claim 17 are incorporated.

McBain suggest a system inherently comprising a means for providing a visual indicator when a response is inputted through said biometric reader in communication with an aircraft controller (see McBain, Fig.5, AIRCRAFT CPU 522, and PILOT SENSOR 512). The examiner submits that a computer screen is obviously included in CPU 522)

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E. As per claim 19: The rationales and references for a rejection of claim 17 are incorporated.

McBain suggest a system inherently comprising a controller is in communication with said another computer of the air vehicle through an interface (see Fig.5 – indicated blocked structures represent different on-board controlled systems connecting by computer interfaces).

F. As per claims 16, and 21, 23-24: The rationales and references for a rejection of claim 17 are incorporated..

McBain obviously suggest a safe flight path is predefined universal air space prior to take off (see McBain, a decision for a divert command to a safe air path in Fig.6, col.5 lines 18-41, and col.6 lines 12-20 – please note that it is normal to plan in advance a safe air space for aircrafts).

8. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBain (US Pat. 6,810,310), in view of Waterman (US Pat. 6,691,956), and further in view of Heyche et al. (US Pat. 5,067,674).

The rationales and references for rejection of claim 17 are incorporated.

The combination of McBain and Waterman do not expressly disclose that:

A. As per claim 10: a system to receive a sequence of biometric inputs.

However, Heyche et al. teach that “the provide specific orders as a function of the application” (this specific order is similar to a sequence of order/required information - see the abstract).

B. As per Claims 11-15: Heyche et al. obviously suggest:

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- an illumination member in communication with a keyboard/input reader (see Heyche et al., col. 4 lines 15-18).
- said illumination member is energized each time a response is inputted – the examiner respectfully submits that it is old and well-known that is a characteristic of liquid-crystal-display (LED).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine McBain, Waterman, and Heyche et al. 's ideas to suggest those claimed limitations since LEDs have been well-known for ability of displaying in fast moving objects such as in an air plane.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over McBain (US Pat. 6,810,310), in view of Waterman (US Pat. 6,691,956), and further in view of Doughty et al. (US Pub. No. 2005/0001711 A1).

The rationales and references for rejection of claim 17 are incorporated.

The combination of McBain and Waterman do not expressly disclose a PC controller is an embedded system.

However, Doughty et al. disclose that an integrated circuit or a controller/processor is embedded within another apparatus (see Doughty et al., para.[0004] lines 1-8).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine McBain, Waterman, and Doughty et al. 's ideas to suggest that a controller is an embedded system for the advantage of increasing security of stored information.

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Conclusion

10. Claims 1, and 3-24 are not patentable. Applicant's amendment (amending claim 1, and adding new claims 3-24) necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

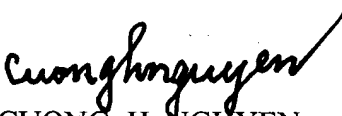
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK, can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6759.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.


CUONG H. NGUYEN
Primary Examiner
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